

The trouble with union donations, school cases

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Conservatives are bashing the state Supreme Court for its recent school rulings. Most of the critiques are off-target, but one hits closer than the justices would care to admit.

When our state Supreme Court ruled Friday that [charter schools here are unconstitutional](#), the decision touched off a rash of judge-bashing from the right.

“The mushy-headed WEA puppets on our state Supreme Court strike again,” tweeted state Sen. Michael Baumgartner, R-Spokane.

Now I think I can state with some confidence that our nine justices are anything but mushy-headed. I’ve heard oral arguments at the Temple of Justice in Olympia. The justices sure seemed sharp when arguing the fine points of the law.

But the other part of the blast — that they’re allied with the WEA — well, that one hits a little closer to the target. WEA stands for Washington Education Association, aka the state teachers union. And it turns out that of our nine justices, seven got the maximum financial donations in their past election campaigns from the WEA (either \$1,800 or \$1,900, depending on the year of the campaign).

That doesn’t mean the court is doing the teachers-union bidding. But what’s troubling even to me, the son of two teachers, is that the WEA was a named plaintiff in both the charter-school case and the recent McCleary case about overall funding of the public schools. How can it not be a conflict of interest for judges to weigh cases brought by a top campaign backer?

Even if the rulings are 100 percent correct, the court is definitely risking its reputation — its appearance for fairness — by taking big donations from a special-interest group that is also a key plaintiff.

Four of the justices — Debra Stephens, Mary Yu, Charles Johnson and Mary Fairhurst — all got \$1,900 contributions from the WEA during the 2014 campaign. That means the donations came after the WEA had filed suit against the charter-school law, and after the case had been appealed to the state Supreme Court. So the justices knew the case was coming, with the WEA as plaintiff, but took their money anyway.

Of those four, three ended up ruling Friday to toss out charter schools. The fourth, Fairhurst, wrote the partial dissent that argued charter schools could still be financed out of the state's general fund.

Arguably the court's biggest WEA benefactor is Justice Susan Owens. The union maxed out to her campaign in 2012 (\$1,800), but in 2006 it also gave \$50,000 to a PAC that supported her campaign. She sided with the WEA in both the McCleary and charter-school cases.

This is a difficult issue, because our justices are elected, not appointed. So absent public financing of campaigns, they have to raise election funds like politicians. Yet once they're in office, they're supposed to be as impartial as baseball umpires.

One justice, Charles Wiggins, has argued that judges faced with a case involving a big donor should step aside.

[“Judges should recuse themselves from cases involving campaign benefactors,”](#) he wrote in a Seattle Times op-ed in 2009. He was elected to the court in 2010 (without any donations from the WEA).

The courts ended up [adopting a donor rule in 2011](#) that's really more of a suggestion. It says a judge “may disqualify himself or herself” if campaign donations from a party to a case “causes the judge to conclude that his or her impartiality might reasonably be questioned.”

Fairly or not, that questioning is happening now.

The state of Utah [has a much stricter rule](#) — that justices have to sit out a case if someone involved in it gave their campaign \$50 or more. If we had that rule, the Temple of Justice would have been almost emptied for the charter-schools case.

The irony is that the main reason we have charter schools in the first place is that Bill Gates poured millions into an initiative to buy the issue onto the ballot. So big-business money pushed us one way. And now big union money is pulling us back.

All of this is perfectly legal under both our political and judicial systems. But it sure seems like a grimy way to run a school system.

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